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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 14, 2009 has been entered.

Claim Rejections - 35 USC § 112

3. Claims 9-12, 16, 17 & 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17, line 18 recites the limitation, "a side" but fails to identify which of the previously recited elements this side is a side of.

Claim Rejections - 35 USC § 103

4. Claims 9-12, 16, 17 & 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al, US 3,688,521 (Smith) in view of Muller et al, US 4,630,834 (Muller). In Fig 1 Smith shows a fixed homokinetic joint (see also col. 5, line 43), comprising:

an inner hub.29;

an outer hub 26;

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- a carrier housing 25 and cap 46 surrounding the outer hub;
- a plurality of tracks 30, 13 associated together in pairs provided in each of the inner hub and the outer hub;
- a plurality of balls 31 received in the tracks;
- a cage 37 guiding the balls to transfer torque;
- a sealing arrangement 38 comprising a bellows 38 having a fold 42, a radially outer edge 40 being coupled to the carrier housing and a radially inner edge 39 coupled to the inner hub;
- a side facing away from the bellows; and
- a closure cover 12 provided on the side that faces away from the bellows, the closure cover being pressed 28 into the carrier housing to form a seal.

Smith does not show a plurality of folds such that the crests of the folds lie in essentially the same plane. In Fig. 1a, Muller shows a sealing arrangement 14 with a plurality of folds 16 such that the crests of the folds lie in essentially the same plane. Muller teaches in col. 2 providing a homokinetic joint with the sealing arrangement 14 in order to provide the joint with an adequate lubricant seal. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the fixed homokinetic joint of Smith by providing it with a sealing arrangement similar to that of Muller in order to provide the joint with an adequate lubricant seal.

As to claims 4 & 13, the combination of Smith and Muller includes every limitation of the claims except neither expressly discloses a maximal operational angle equal to 10°, the maximal installation angle greater than 10°, or the rubber bellows having a hardness of 70 Shore. However, it would have been obvious to one of ordinary skill in the art to design the maximal

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operational angle equal to 10° , the maximal installation angle greater than 10° , or the rubber bellows having a hardness of 70 Shore in the combination of Smith and Muller, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Note also that at page 20 of the reply filed April 22, 2009, applicant states that it is fully within the ability one skilled in the art to make a fixed homokinetic joint with the limitations in claim 4 without any explanation of additional structure that would be required to provide those limitations.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 10:30 am to 8:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Greg Binda/
Primary Examiner, Art Unit 3679